

FILE 45
Clerk
District Court

SEP 29 2006

For The Northern Mariana Islands
By _____

(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

ABELLANOSA, JOANNA,
et al.,

Plaintiffs,

v.

L&T INTERNATIONAL
CORPORATION,

Defendant.

Civil Action No. 05-0010

DECLARATION IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

I, MARIA BEATRIZ MAGNAYE, hereby declare as follows:

1. I am over the age of eighteen years old, have personal knowledge of the facts set forth herein, am competent to testify as to these facts if called as a witness in a court of law, and if called would testify as stated herein.
2. I am a citizen of the Republic of the Philippines. I was hired by L&T International Corporation as a nonresident contract worker, to work in the position of Hand Packer in 2004.
3. On or about February, 2004, I went to L&T to apply for an advertised job vacancy for hand packers. After filling-up and turning in the application form, I was told that L&T will call me for further information.
4. After about two weeks, an L&T personnel who identified herself as Baby Lopez, called me up for interview. When I reported to L&T, a certain Cory Quing and Amy Tse conducted the interview.

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ORIGINAL

I.
MEDICAL FEES
 (Physical Examination Fee
 and Health Certificate Fee)

5. After I passed the interview, Baby Lopez asked me to complete the Consensual Transfer documents and have my employer complete and sign them, which I did. I gave the completed consensual transfer documents to Baby Lopez at the HR office. Baby Lopez then asked for and I gave her my health certificate which she noted had not yet expired. She then told me that L&T would use my health certificate from my then employer.

II.
CONTRACT SIGNING

6. My first non-resident contract was in 1990. Basically, annually since then, each year, my employers used and had me sign a standard form labor contract provided by DOL. I became familiar with the basic terms of the DOL standard form contract. A copy of such standard form contract is attached as *Exhibit "A"* to Plaintiffs' Amended Opposition.

7. In 2004, when L&T HR staff Baby Lopez handed me their contract form, with only the signature page showing, and insisting that I sign, I had no reason to believe it was not the standard DOL form contract. Prior to signing this L&T contract form and at the time it was presented to me in the HR for signing, I was not given an opportunity to read the contract before signing it. When it was presented to me in the HR office, Baby Lopez just pushed the document through the counter-window with the pages turned back, showing only the signature page, and pointed to where I was to sign it, and said sign, which I did without reading

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1 it. There were many other applicants present and waiting in line. The HR staff
2 was rushing me and other applicants by insisting that I and the other applicants
3 I saw present, hurry up and quickly sign, without delaying the document
4 processing. From the mood and way the HR staff was acting, I was made fearful
5 that if I didn't just sign the signature page as instructed, I would lose the job
6 opportunity especially since none of the other applicants I saw there held up the
7 line by or took time to read the contract document. I observed the HR staff
8 acting the same way with other workers who signed before and after my turn.
9 Neither Baby Lopez, nor any one else, ever showed me my contract document
10 until the time and date they asked me (us) to sign at HR. I was never given a copy
11 of the L&T contract document I signed before my termination on or about May
12 13, 2004. After my termination, I was surprised when I later learned of some of
13 the things and terms in L&T's self-styled contract. Had I known that some of the
14 things and terms in L&T's self-styled contract are different from those contained
15 in DOL standard form contract, I would not have agreed to it.

16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000

8. There was no individualized measurement or testing to determine my or each
Packer's individual performance or production. The only production
measurement or test was done by counting the output (production) from each of
the different lines of Packers. There was really no way for me as an individual
packer to control or show an increase in the number of products because I was
just one individual on the line with many others. In the packing section our work
was performed by groups of workers on so-called lines. The packages or items

1 we were assigned to work on often varied from day to day. Our Head Supervisor
2 in the packing section was Wu, Duan Shu, who is a Chinese. When I and other
3 Filipino workers tried to ask her questions regarding our work she could not
4 answer nor explain because she does not speak english fluently. (*See* Defendant's
5 Response to Plaintiffs' First Set of Request for Interrogatories No. 49a).

IV. TERMINATION

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8 9. I was employed and worked for L&T International Corporation as a hand
9 packer, from on or about February 2004 to May 13, 2004, when I and other
10 workers in the hand packing section were summoned by the calling of our
11 individual names over the public address system, to report to the human resources
12 (HR) office. I believe and understand we were called in two batches, one about
13 3:00 p.m., and one about 5:00 p.m. (*See* Deposition of Jack Torres, page 97, lines
14 14-17).

15 10. I did not know why we were being called to come to HR. I thought that we
16 were being called regarding receipt of our anticipated ATM Cards that L&T had
17 previously given us and had us fill out an application for, as they told me and
18 other workers present, to make it easier and more convenient for (us) workers to
19 access and get our anticipated bi-weekly wage payments without having to stand
20 in line waiting for and trying to cash payroll checks. I was made more assured of
21 my continued employment and anticipated pay check by L&T having asked me
22 and other workers to set up these ATM accounts to facilitate our anticipated
23 payroll check payments.

24 11. As we arrived at the designated meeting room, I observed other workers,
25

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and Corazon Quing, Malou Ernest and Rhodora Bernabe, known to us as HR staff, were present at the May 13, 2004 meeting.

12. I did not see or hear Corazon Quing read or reading from any document or the so-called "communication plan" as described and stated in Exhibit "A" attached to the Declaration of Corazon Quing.

13. More specifically, I (we) were not told as stated by Corazon Quing that we the workers, had the right to appeal our termination to the "Legal Department" of L&T or to any one else.

14. Neither Malou Ernest, Corazon Quing nor any one else at the May 13, 2004 meeting, informed us, that the purpose of the so-called second check was "to cover for 10 days pay in lieu of notice," as stated in paragraph 7, Declaration of Corazon Quing. Additionally, L&T's own RIF policy required, as proposed RIF workers, that I (we) "shall be given written notice of separation at least 15 days prior to the effective date of separation, or severance pay in lieu of notice." (*See* Ex. "D," Jack Torres' Deposition, and page 88, lines 6-8 and lines 20-24).

15. It was my honest belief that I and my co-workers were terminated on May 13, 2004 and that the termination was effective immediately on and from May 13, 2004, because I (we) were told by HR staff at the May 13, 2004 meeting that today (May 13, 2004) was our last day of employment and they demanded that we give up and turn in our company ID cards which were required and needed for company employees to freely enter company premises; and more importantly, our I.D.s were swipe-cards for the time-clocks so we could not clock in or out without them, in addition to being required to "turn over any and all company properties in your possession... on or before May 13, 2004" as stated in the Notice of Termination. *See* Ex. "D," Defendant's Memorandum.

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16. As a result I believed and felt that I was terminated and forced to stop working on May 13, 2004, the same date that the Notice of Termination (dated May 12, 2004) was given to me. Hence, I was not given the required prior notice of termination and/or of the RIF.

17. I and the other plaintiffs worked a set work schedule and shift, and worked Monday through Saturday, seven (7) hours a day, six (6) days a week, for a total of forty-two (42) hours each work week, which included two (2) hour overtime each work week while employed at L&T.

18. At the time of my termination, no one from L & T offered to assist me in finding other employment or told me that they would or could assist me in getting work with affiliate companies of L&T.

V. EMOTIONAL DISTRESS

19. When I was hired by L&T in February, 2004, I was elated and so happy telling my relatives and friends about my excitement at being employed with a big and secure company.

20. My happiness, however, was short-lived as I and my co-workers were terminated by L&T after working for only two (2) months, more or less. L&T never explained why I and the other Plaintiffs could not have been allowed to work to the end of the contract and not renewed.

21. I became very emotionally upset and disturbed as a result of the termination of my employment at L&T. The way L&T broke the news of termination to us, not individually or privately, but *en masse* in front of all the other employees,

1 resulted in wailing, crying and shouting and pandemonium among the workers
2 present; I and the other workers present were crying and hugging each other and
3 trying to console one another.

4 22. When I arrived home on May 13, 2004, I broke down and was crying
5 hysterically and uncontrollably and could not sleep. As a result, my demeanor and
6 routine changed. My anxiety increased, I constantly looked depressed and spent
7 increasingly more time calling my parents, friends and relatives especially in the
8 Philippines talking about my termination and I would then break into hysterical
9 and uncontrollable crying during these telephone conversations. For months, I
10 was fixated on the termination incident and became irritable, hostile and
11 aggressive and especially in my attitude and relationship with my husband and
12 father of my kids. It became the focus and topic of conversations with relatives,
13 friends and acquaintances. As a consequence, my family and personal
14 relationships were strained or destroyed.

15 23. As my severe emotional distress was mounting, I spent more and more time
16 watching T.V. until 2 or 3 a.m. trying to fall asleep, but even then when I came to
17 bed I was irritable and restless. I used to be, prior to the loss of my job with L &
18 T, loving and tender in bed with my husband, but that changed even until now.

19 24. The sudden change in me negatively affected my relationship with my
20 husband. Only the advice of well-meaning friends saved our relationship. I used
21 to be very patient and caring for my family, especially for our children before I
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was terminated. After the loss of my job at L&T, I easily lose patience with and am quick to yell and shout at the kids and my husband until now. I notice and feel that I am not the same person before and after the loss of my job at L&T.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 26th day of September, 2006.

/s/ *Ma. Beatriz Magnaye* 9/28/06
Ma. Beatriz Magnaye
Declarant

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